

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

GERARDO GOMEZ, JR. §
VS. § CIVIL ACTION NO. 1:18cv637
§
UNITED STATES OF AMERICA, ET AL §

INITIAL PARTIAL FILING FEE ORDER

Parties instituting any civil action, suit or proceeding are required to pay a filing fee of \$400.00.¹ In this action, plaintiff has filed an Application to Proceed *In Forma Pauperis*. The Prison Litigation Reform Act of 1996 (PLRA) requires prisoners seeking to bring civil actions *in forma pauperis* to pay an initial partial filing fee. The Act further requires prisoners thereafter to pay the balance of the full filing fee.

The Court having considered the application in light of the PLRA finds that the following order should be entered.

It is **ORDERED** that:

1. The Clerk shall file plaintiff's pleadings without prepayment of the filing fee.
2. An initial partial filing fee of \$101.29 shall be paid to the Clerk within thirty (30) days from the date set forth below.² Upon receipt of the initial partial filing fee, the Court, as required by PLRA, will order the agency having custody of GERARDO GOMEZ, JR., BOP#83613-280, to make monthly withdrawals from plaintiff's inmate account and forward them to the Court until the balance of the full \$350.00 filing fee is paid.
3. Plaintiff is responsible for timely payment of the initial partial filing fee. If payment will be made from plaintiff's inmate trust account, plaintiff shall execute all consents and other documents required by the agency having custody of plaintiff to authorize the necessary withdrawal from plaintiff's inmate trust account.

¹ See 28 U.S.C. §§ 1914(a) and 1931(a), 31 U.S.C. § 3302(b), Pub. L. No. 109-171, and Pub. L. No. 106-518.

² Plaintiff's average deposit for the 6 month period was \$506.42. Twenty percent of \$506.42 is \$101.29.

4. Failure to pay the initial partial filing fee or to show that plaintiff has insufficient assets or means by which to pay the initial partial fee within 30 days may result in a dismissal of plaintiff's complaint without further notice.

5. Service of process shall be withheld pending judicial screening pursuant to 28 U.S.C. §1915A.

6. No amendments or supplements to the complaint shall be filed without prior court approval. A complete amended complaint shall be attached to any motion to amend.

7. All discovery in this case is stayed until an order to answer is filed.

8. No motions for appointment of counsel shall be filed until the Court has completed its screening pursuant to 28 U.S.C. § 1915A, which may include a hearing pursuant to *Spears v. McCotter*, 766 F.2d 179 (5th Cir. 1985).

9. Plaintiff shall notify the Court of any change of address by filing a written notice of change of address with the Clerk. Failure to file such notice or failure to comply with any other requirement of this order may result in this case being dismissed for want of prosecution.

NOTICE TO PLAINTIFF:

a. If you do not wish to prosecute this action, you may notify the Court in writing, by letter or motion, that you wish to voluntarily dismiss this civil action.

b. Payment of all or any part of the full filing fee will not prevent dismissal of the complaint if it is frivolous, malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant who is immune from such relief.

SIGNED this 17th day of January, 2019.



Zack Hawthorn
United States Magistrate Judge